

SC NAACP v. Alexander,
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

Exhibit 28

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF SOUTH CAROLINA
3 COLUMBIA DIVISION

4 -----x
5 THE SOUTH CAROLINA STATE
6 CONFERENCE OF THE NAACP

7 and

8 TAIWAN SCOTT, ON BEHALF OF HIMSELF
9 AND ALL OTHER SIMILARLY SITUATED
10 PERSONS,

Case No.
3:21-CV-03302
JMC-TJH-RMG

11 Plaintiffs,

12 vs.

13 THOMAS C. ALEXANDER, IN HIS OFFICIAL
14 CAPACITY AS PRESIDENT OF THE SENATE;
15 LUKE A. RANKIN, IN HIS OFFICIAL CAPACITY
16 AS CHAIRMAN OF THE SENATE JUDICIARY
17 COMMITTEE; MURRELL SMITH, IN HIS OFFICIAL
18 CAPACITY AS SPEAKER OF THE HOUSE OF
19 REPRESENTATIVES; CHRIS MURPHY, IN HIS
20 OFFICIAL CAPACITY AS CHAIRMAN OF THE
21 HOUSE OF REPRESENTATIVES JUDICIARY
22 COMMITTEE; WALLACE H. JORDAN, IN HIS
23 OFFICIAL CAPACITY AS CHAIRMAN OF THE HOUSE
24 OF REPRESENTATIVES ELECTIONS LAW
25 SUBCOMMITTEE; HOWARD KNAPP, IN HIS
 OFFICIAL CAPACITY AS INTERIM EXECUTIVE
 DIRECTOR OF THE SOUTH CAROLINA STATE
 ELECTION COMMISSION; JOHN WELLS, JOANNE
 DAY, CLIFFORD J. EDLER, LINDA MCCALL,
 AND SCOTT MOSELEY, IN THEIR OFFICIAL
 CAPACITIES AS MEMBERS OF THE SOUTH
 CAROLINA STATE ELECTION COMMISSION,
 Defendants.

-----x

22 STENOGRAPHIC REMOTE VIRTUAL DEPOSITION
23 CHARLES TERRENI
24 Tuesday, August 16, 2022

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1 TERRENI

2 Q. Yes.

3 A. Yes, I have it.

4 Q. From Adam Kincaid to Andrew
5 Fiffick.

6 A. Yes, ma'am.

7 Q. So you've seen this before?

8 A. Yes.

9 Q. Before even I sent it?

10 A. Before you sent it, yes.

11 Q. When did you see it?

12 A. I think in the process of
13 discovery.

14 Q. Is this the two maps that
15 you believe Mr. Oldham was referring
16 to in the text exchange that we just
17 went over?

18 A. I believe so, yes, ma'am.

19 Q. And it's your position,
20 correct me if I'm wrong, that in
21 speaking to Mr. Oldham you told him
22 that he could communicate to NRRT,
23 that they could share these maps
24 with Mr. Fiffick at his gmail?

25 MR. GORE: Object to form.

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2 A. Mr. Oldham or Mr. Kincaid,
3 whoever, needed an email address
4 with which to share these maps. And
5 I believe, I don't specifically
6 recall, that we provided -- I
7 provided it to him probably. I just
8 know that Mr. Oldham called, he
9 wanted to share these maps with us,
10 we allowed him to do so.

11 Q. Did you know Mr. Kincaid
12 before he sent these emails?

13 A. No, ma'am.

14 Q. Have you talked to
15 Mr. Kincaid on the phone?

16 A. No.

17 Q. Have you emailed separately
18 with Mr. Kincaid about congressional
19 redistricting?

20 A. No.

21 Q. So Mr. Oldham is the go-to
22 to NRRT as far as you are concerned?

23 A. No. Mr. Oldham -- I don't
24 have a go-to to NRRT.

25 Q. But Mr. Oldham is the

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2 Q. And do you know -- how did
3 you come to see them, can you
4 describe what you understand
5 happened once this Adam Kincaid sent
6 Mr. Fiffick this zip file, how did
7 it go from there to you seeing them?

8 A. One way or another the
9 files were conveyed to Will Roberts
10 who loaded them in the Maptitude
11 software so that we could look at
12 them.

13 Q. And by saying we looked at
14 them, who was that?

15 A. Generally Mr. Roberts, me,
16 Mr. Fiffick, Breeden John may have
17 been there. I don't believe anybody
18 else specifically but...

19 Q. Do you know if these maps
20 were shared with Jones Day?

21 A. I don't recall. I think
22 so.

23 Q. Did you share them with
24 Jones Day?

25 A. I don't remember.

1 TERRENI

2 Q. How would you have shared
3 them with Jones Day? Via email?

4 A. I don't think I would have
5 shared them with Jones Day, it would
6 have been -- I would have had Mr.
7 Roberts or somebody send it to Jones
8 Day, if we did it. I just don't
9 remember this.

10 Q. Why would you have sent
11 them to Jones Day for what purpose?

12 A. Because they were submitted
13 to the Senate -- they were
14 represented as having some political
15 consensus behind them and so just
16 for general informational purposes.

17 Q. Political consensus of who?

18 A. The congressional
19 delegation. Specifically the
20 Republican congressional delegation.
21 Mr. Oldham told me they had worked
22 with the Republican congressional
23 delegations on some maps or map
24 delegation singular or rather he had
25 said they worked on the delegations

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-- with the delegation on maps. I
asked him if the delegation included
Mr. Clyburn. He said no, this is
the Republican delegation and that
was it. That's what he told me.

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Q. And by -- so that means
that -- did you understand that to
mean that Mr. Oldham had
communicated with all six members of
the congressional delegation but
Representative Clyburn on this map
or both of these maps?

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A. I understood Mr. Oldham to
represent that the maps were
acceptable to the six members of the
delegation. We did not discuss
whether he individually communicated
with each member or whether he
communicated with the staff or he
didn't do a role call. Just what he
said.

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Q. Are you aware of whether --
are you aware that there were other
maps submitted by the public

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proposing congressional lines of
this cycle?

A. Yes.

Q. Are you aware whether those maps were submitted to Jones Day?

A. I imagine Jones Day was made aware of various maps that were submitted. I don't want to go in -- I don't think it's appropriate, unless my attorney tells me so, to go through each map that I submitted to Jones Day, but yes Jones Day was generally made aware of maps that were submitted to the Senate.

Q. How many maps did you share with Jones Day?

A. I don't know how many maps I individually shared with Jones Day again -- I mean it could have been anybody on Senate staff. I mean if you are saying physically shared, probably not many because Will Roberts would have been the logical person to do it. I'm speculating

1 TERRENI

2 here. I just don't -- I mean are
3 you asking me you if we,
4 collectively, the Senate staff
5 shared maps with Jones Day, yes.
6 The logistics of it, I'm sorry, I
7 don't remember.

8 Q. How did you determine which
9 maps you would have shared, you
10 collectively, the Senate, with Jones
11 Day?

12 A. Maps that I thought had
13 some particular political
14 significance perhaps at a
15 constituency that would have made
16 them likely to adopt or the member
17 had some concerns about or had
18 questions about or was interested
19 in. If someone -- I mean that's a
20 general answer but it's pretty much
21 accurate.

22 Q. How would a nonpartisan
23 organization have factored into your
24 calculus of a map that had political
25 significance?

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2 ahead. You can answer.

3 A. Well, we did not share
4 every map with Jones Day. That
5 obviously involved some editorial
6 function which we exercised in
7 sending maps to Jones Day. We did
8 not send every map to Jones Day.

9 Q. The calculus for which maps
10 you would send to Jones Day was
11 essentially whether or not you
12 thought, you collectively thought
13 that a map had some political
14 significance, was likely to be
15 adopted or a member would be
16 interested in, those were the
17 contours of how you determine which
18 maps you would pick and potentially
19 submit to Jones Day?

20 A. Those would be some of the
21 reasons, yes, for sending maps to
22 Jones Day, yes.

23 Q. Looking at tab 58, and I
24 sent you 57, 58 is the associated
25 stats for the Wren map. I think we

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1 TERRENI

2 A. No.

3 Q. Did you receive guidance
4 from Jones Day about the Wren plan
5 before you communicated it back to
6 Mr. Oldham?

7 A. I don't believe so.

8 Q. Do you have any reason to
9 dispute that in this map Sumter is
10 split, Sumter as a county is split?

11 A. I don't know.

12 Q. What about Orangeburg, do
13 you recall whether Orangeburg was
14 split as a county in this Wren plan?

15 A. If you showed me the map, I
16 could, but I don't know. I can't --
17 from memory, no, I don't have any
18 recollection.

19 Q. Do you have any
20 recollection of how Beaufort was
21 treated in this Wren plan?

22 A. No.

23 Q. And what about Charleston,
24 the County of Charleston, do you
25 have any recollection of how

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1 TERRENI

2 Charleston was treated, whether
3 whole or split, in this Wren plan?

4 A. I seem to recall the split.

5 Q. Do you recall how much
6 CD 2, Representative Wilson's
7 district, how CD 2 fared under this
8 Wren plan?

9 A. No.

10 Q. And what about CD 7, do you
11 have any recollection of how CD 7
12 fared under this Wren plan?

13 A. What do you mean by fared?

14 Q. Whether it was kept whole,
15 whether it was split, do you have
16 any recollection?

17 A. Of CD 7 whether it was
18 split?

19 Q. Um-hmm.

20 A. I'm sure it was changed.

21 Q. Changed from when?

22 A. The benchmark plan.

23 Q. And the benchmark plan is
24 referring to the 2011, the plan
25 adopted and enacted after the 2011

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percentage of black voters in any of
the other congressional districts
outside of CD 6?

A. Appears to be District 7,
the 24.82.

Q. What is the lowest percentage of black voters in any of the districts under the Palmetto plan?

A. District 1, 17.08.

Q. Looking back at the first page, can you tell what district Beaufort is in in this map?

A. Appears to be mostly in district -- well, it's all in District 1, I believe, unless there's a cut of my Hampton. I believe it's all in District 1.

Q. And looking at Charleston County can you tell where Charleston County falls under the Palmetto plan?

A. In District 1 and
District 6

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1 TERRENI

2 Q. Do you have any view of
3 whether congressional District 7 in
4 this map looks changed from the
5 benchmark map in 2011?

6 A. I would have -- honestly, I
7 would have to compare it but it
8 looks generally the same.

9 Q. Is there anything else
10 about the Palmetto plan that stands
11 out to you looking at it at this
12 moment?

13 A. In what way?

14 Q. Let's go back. How long do
15 you remember spending looking at
16 this map in Senator Rankin's office?

17 A. Five minutes, ten.

18 Q. Is there a reason why you
19 only looked at it for five or
20 10 minutes?

21 A. Yes, ma'am. We had already
22 drawn a plan that we were getting
23 ready to propose. We didn't see
24 this making any improvement. We
25 thought District 6, we had some

8 Q. And you subsequently spoke
9 to Mr. Oldham again and did you, to
10 be clear, did you ask him what -- he
11 initiated the sending of a second
12 map known as the Jessamine map. Do
13 you recall that?

A. That was a few days later.

15 Q. Did you ask for that map or
16 did he just send it in response to
17 the feedback that you gave him about
18 the Palmetto and Wren?

19 A. It was not solicited by me.
20 He sent it in response to the
21 feedback about Palmetto and Wren and
22 the staff plan, the release of the
23 staff plan. And the release of the
24 staff plan would have been -- I
25 think he sent it after the staff

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2 plan was released and then posted to
3 the website and I think his effort
4 as he described it was to, quote
5 unquote, improve on the staff plan.

6 Q. Did you at any time ever
7 contemplate asking Mr. Fiffick to
8 forward the maps from Mr. Kincaid
9 received on November 18th to the
10 Senate redistricting email that had
11 been released to the public?

12 A. I don't recall doing that
13 no.

14 Q. Do you recall asking any of
15 the Senate staff to forward these
16 two maps to any member of the Senate
17 redistricting subcommittee?

18 A. I don't recall doing that.

19 Q. As you sit here today, do
20 you know whether any member of the
21 Senate subcommittee has ever seen
22 the Palmetto or the Wren plan?

23 A. I believe Senator
24 Harpoottlian saw them.

25 Q. How so?

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2 Mr. Fiffick shared those maps with
3 Senator Harpoortlian one way or the
4 other?

5 A. No, ma'am.

6 Q. And do you know whether, as
7 you sit here today, how any member
8 of the public would be aware of the
9 Palmetto and Wren plan being sent to
10 staff members of the Senate during
11 the redistricting process?

12 A. I do not.

13 Q. Let's look at tab 10, which
14 is another email from Adam Kincaid
15 and Andy Fiffick dated
16 November 24th, 2021, and is Bates
17 stamp number South Carolina Senate
18 ending in 3245 and this should be
19 Plaintiffs' Exhibit 5.

20 (Plaintiffs' Exhibit 5, Email
21 from Adam Kincaid to Mr. Fiffick,
22 Bates South Carolina Senate ending
23 in 3245, marked for identification,
24 as of this date.)

25 A. Yes, ma'am.

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2 Q. Have you seen this before?

3 A. In preparing for this
4 deposition.

5 Q. Had you seen the contents
6 of what was being transmitted from
7 Mr. Kincaid to Mr. Fiffick, had you
8 seen that before preparing for this
9 deposition?

10 A. In the context of the
11 Jessamine zip file I believe so,
12 yes.

13 Q. Where would you have seen
14 the Jessamine zip file?

15 A. In the Senate offices,
16 probably I believe Senator Rankin's
17 office.

18 Q. Okay. Do you recall who
19 was with you when you saw this map?

20 A. I believe Andy would have
21 been and Will Roberts and I don't
22 recall anybody else but there could
23 have been other people.

24 Q. And is there any reason why
25 after the first email from Adam

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2 Chairman Rankin instructed Senate
3 staff not to consider race during
4 congressional redistricting?

5 A. I don't recall him doing
6 that.

7 Q. Is that something you would
8 recall?

9 A. Probably.

10 Q. Because it's important
11 whether or not the Senate could
12 consider race or not in drawing
13 redistricting lines?

14 A. No. It's just because it
15 would have been a specific
16 instruction from Senator Rankin. I
17 mean when you say considering race,
18 if you are asking did Senate staff
19 look at the racial impact of various
20 draws or the racial composition in
21 districts under various draws, the
22 answer is yes. Was it the
23 predominant factor in guiding
24 redistrict -- proposed redistricting
25 fans, no, and was it a predominant

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4 Q. Who would have made the
5 determination of whether or not race
6 was the predominant factor in
7 redrawing the congressional map?

8 | A. The courts.

9 Q. So that decision, that
10 analysis of whether race was the
11 predominant factor in the redrawing
12 of South Carolina's congressional
13 map, that has not been determined
14 yet because litigation is ongoing?

15 A. I mean that's the way I see
16 it. If you are asking whether or
17 not we consider race as the
18 predominant factor, the answer is
19 no.

Q. Because that's a factual question because there hasn't been a legal determination yet?

23 A. Well, I suppose so. I mean
24 obviously we don't think it was.

25 You seem to think that it was the

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predominant factor and the courts
are going to have decide.

Q. If an individual member said during the redistricting process that they did not consider race, is it your position that they were not instructed to do so by Senator Rankin as far as you are aware?

A. I'm not aware of Senator Rankin instructing individual members to do things one way or another.

Q. Do you see anything, and you can take a moment looking at this guidance, do you see anything in the guidance saying that race would not be considered in the development of redistricting lines for maps in South Carolina during this cycle?

A. I don't think so. And it says race must not be the predominant factor. Yeah. I mean

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I'm not aware of any instruction in
the guidelines that says don't
consider race. Now, whatever
individual members wanted to do
could be that individual members
said I'm just not going to look at
race at all. I mean I think that
would be a permissible policy
decision on their part. I had no
control over that.

12 Q. I want to understand a
13 little bit more what you believe to
14 be the consideration of race and I
15 believe you recently testified a few
16 moments ago that it's looking at the
17 racial impact of lines on a
18 particular protected community, is
19 that fair to say?

20 A. Yeah, by impact I mean you
21 change the composition of the
22 district is the starting point.

23 Q. Is the --

24 A. Is a starting point.

25 Q. What else does

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2 be a substantial change in the BVAP
3 of the district, there's substantial
4 inquiries in the BVAP for the
5 district that may raise some
6 questions that we have to explore,
7 either legal questions or practical
8 questions. I may need to call
9 Mr. Gore UP and say hey, would this
10 district caused some legal concerns
11 from the racial gerrymandering
12 standpoint where because it's
13 resulting in a different BVAP
14 impact. It's just one of those
15 things like county boundaries,
16 precinct boundaries, whatever you
17 should reconsider.

Q. Could keeping BVAP as at
the relative same levels as the 2011
benchmark map also have a racial
impact?

22 A. Could keeping BVAP -- I
23 mean it's going to be what it is,
24 right? I mean you either drop it,
25 raise it or keep it the same. It's

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1 TERRENI

2 mean Goodman, but I don't remember
3 at this time.

4 Q. Do you know whether this
5 summary was provided to Senate
6 members?

7 A. No.

8 Q. Okay. Going back to tab 1,
9 which is the guidelines.

10 A. Okay.

11 Q. Underneath Communities of
12 Interest under 3B on the second page
13 South Carolina Senate 22358 there is
14 a category called Constituent
15 Consistency.

16 Do you see that?

17 A. Yes, ma'am.

18 Q. And it says that:

19 "Preserving the cores of existing
20 districts, keeping incumbent
21 residences and districts with their
22 core constituents and avoiding
23 contests between incumbent
24 legislators should be considered."

25 Is that accurate?

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1 TERRENI

2 A. Yes, ma'am.

3 Q. And based upon where this
4 falls in the guidelines would you
5 agree that this is a subsidiary
6 consideration to federal law
7 requirements?

8 A. Yeah. And if you are
9 asking me could you violate federal
10 law for the sake of constituent
11 consistency, my answer would be no.

12 Q. And by federal law we are
13 talking about compliance with one
14 person, one vote Section 2 and
15 nonracial gerrymandering?

16 A. Yes, ma'am.

17 Q. Did you have any concerns
18 that preserving the cores of
19 existing districts could bake in
20 lines that are harmful to compliance
21 with federal law?

22 A. To the extent that I did, I
23 would have discussed them with
24 Mr. Gore. In the final analysis my
25 answer would be no.

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whether a racially polarized voting analysis was conducted or are you aware whether racially polarized voting analysis was conducted by the Senate as maps were being developed for Congress?

8

A. I am not aware that a racially polarized voting analysis was conducted by the Senate as maps were being developed for Congress. I have no knowledge of such a thing and I don't believe it occurred.

14

Q. Are you aware whether the public or legislative members asked for racially polarized voting analysis to be conducted while congressional maps were being considered?

20

A. I'm aware that some members of the public and one member of the general assembly, at least, Senator Harpootlian, asked or suggested that it should be done.

25

Q. And do you know whether

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2 that was acted upon?

3 A. Yeah. I know it wasn't.

4 Q. Who made the decision not
5 to act upon those requests?

6 A. The subcommittee.

7 Q. Did they take a vote on
8 that?

9 A. I think they have. It was
10 during the, or at least they
11 declined to take a vote on it, but
12 the discussion we had in a public
13 subcommittee meeting in which
14 Senator Harpootlian advanced the
15 opinion that we should have a
16 racially polarized voting analysis
17 conducted in advance of the Senate
18 and congressional process. I
19 expressed the opinion that it was
20 not useful. And the Senate, we did
21 not, at least implicitly, the
22 subcommittee did not agree with
23 Senator Harpootlian, and I mean that
24 just the Senate did not vote or
25 direct us to conduct that. I

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1 TERRENI
2 shouldn't say we. I can't speak for
3 them.

4 After this question can we
5 take just a five-minute break?

6 MS. ADEN: Yes. Why don't we
7 stop and we will return to that.

8 THE WITNESS: I appreciate
9 that. We will come back at three
10 maybe. Is that okay?

11 MS. ADEN: Sounds great.

12 (Whereupon, there is a recess
13 in the proceedings.)

14 Q. Before the break I believe
15 you mentioned not agreeing that a
16 racially polarized voting analysis
17 was necessary, at least in the early
18 part of 2021. Can you explain why?

19 A. Yes, ma'am. We had no
20 reason to believe at the time that
21 we were going to have an issue with
22 Section 2 compliance. No claims had
23 been asserted. Nobody really
24 threatened them. The sixth
25 congressional district which would

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have been the likely target of that
claim had been upheld against a
Section 2 challenge by the court ten
years ago. And the upside, if there
was one, of conducting a racially
polarized voting analysis in my
opinion outweighed the downside, at
least what I told the subcommittee,
and the downside being that all of a
sudden race would have been in the
middle of the room and that we would
risk making race or some artificial
target the -- derived from that
polarized voting analysis the
predominant factor or at least
expose ourselves to accusations that
it was. So at that point with no
Section 2 claim -- facing no Section
2 claim we didn't think it was
necessary.

22 Q. Are you aware of whether
23 the black voting age population in
24 congressional District 6 was reduced
25 as compared to under the 2011

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1 TERRENI

2 benchmark map?

3 A. It was.

4 Q. Okay. How did you or the
5 Senate assess whether or not that
6 district would still perform with
7 the change in the BVAP having not
8 looked at racial bloc voting
9 patterns in that district?

10 A. It was an educated judgment
11 in the sense that it was not a
12 substantial diminution of the black
13 population. It was not all the
14 Senate districts around the state.
15 The minority Senate districts were
16 facing reduced black population
17 because the state Senate certainly
18 as a whole -- I mean, excuse me,
19 black population as a whole had been
20 reduced including the BVAP.

21 I had heard Congressman
22 Clyburn himself say that he didn't
23 think his district needed as much
24 BVAP. I think he was quoted
25 publicly saying that. And we didn't

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2011 plan as possible for
congressional redistricting?

A. No. There's not.

Q. Is there anything within these guidelines expressly stating that the public and/or the legislature preferred a map that minimally made changes between the 2011 map and the one to be enacted?

A. I don't think so.

Constituent consistency and preserving cores was a factor but it didn't express a preference, no.

Q. Do you think the average member of the public would understand, would equate preserving the cores of constituencies with making a map that minimally changes districts between the 2011 map and the 2020 map?

A. I don't know, but it
wouldn't be intended for them to
reach that understanding. That
wasn't a foregone conclusion. These

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1 TERRENI
2 criteria would have resulted in --
3 could have weighed other factors
4 above core constituent consistency
5 or cores and the map could have been
6 radically different than the one you
7 submitted.

8 Q. Except for core
9 constituency could not supercede
10 one person one vote Section 2
11 compliance and nondilution,
12 nonracial gerrymandering?

13 A. And nonracial
14 gerrymandering?

15 Q. It could not supercede
16 racial gerrymandering --

17 MR. GORE: Object to form.

18 MS. ADEN: I object to my own
19 form.

20 Q. Core constituency could not
21 supercede compliance with one person
22 one vote compliance with Section 2
23 and it could not lead to racial
24 gerrymandering under the guidelines?

25 A. Correct.

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2 Q. Do you see anything in
3 these guidelines that articulates
4 that Beaufort should remain in CD 1
5 and not be put in CD 2?

6 A. Not explicitly. That's an
7 outcome.

8 Q. But that is something that
9 was debated during the legislative
10 process?

11 A. Yes.

12 Q. And similarly you don't see
13 anything expressly in these
14 guidelines that says keep Fort
15 Jackson in CD 2 with -- in CD 2?

16 A. Again, not expressly, no.

17 Q. And is there anything in
18 this instruction that says make
19 Congressional District 1 likely to
20 elect a Republican congressional
21 candidate or be Republican leaning?

22 A. Not specifically, no.

23 Q. And unspecifically where do
24 you think it says that or suggests
25 that?

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2 A. It doesn't -- I'm sorry --
3 it doesn't specifically say that or
4 even nonspecifically. It does say
5 congressional District 1 should be
6 Republican leaning. No, that's not
7 a guideline.

8 Q. In tab 12, which should be
9 plaintiffs Exhibit 17.

10 A. Tab 12, okay.

11 Q. This should be an email
12 cover from Holi, H-O-L-I, Miller, or
13 two Ls. Is that two Ls or one L? I
14 can't see. Two Ls, H-O-L-L-I Miller
15 on behalf of Senator Harpootlian
16 copying you, Mr. Terreni dated
17 September 16, 2021 with the subject
18 "Notice of redistricting
19 subcommittee meeting" and it's
20 attaching a letter to Luke Rankin.
21 This is Bates stamped South Carolina
22 Senate 3387 to 95. Can you take a
23 moment to -- I'll direct you to
24 particular things, but it's a
25 nine-page pdf.

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12 Q. Can we refer to the Senator
13 Campsen map as the Senate Amendment
14 1?

15 A. Yes.

16 Q. Would it be fair to say
17 that Will Roberts, you Mr. Terreni,
18 Breeden John, Senator Campsen,
19 Senator Rankin were involved in the
20 development of Senate Amendment 1?

21 A. Yes. In different ways but
22 yes.

23 Q. What do you mean in
24 different ways?

A. A Senate amendment is just

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that. It was an amendment that is sponsored by a Senate majority and ultimately voted on and adopted by the Senate. So in that sense it's not my plan. Did I assist in its development, yeah. I would say I did, in providing practical or legal advice regarding the plan.

Supporting them and advancing it.

But at that point it was beyond the staff plan so I just want to make sure by saying did we participate, it was not a relationship among equals.

Q. When you say practical advice about the Senate amendment plan, what's an example of what that would encompass?

A. Well, it would encompass, like, institutional recollection about what maybe some members of the delegation's preferences were, what decisions had been made by the court on the record regarding those

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preferences of and various features of the map. Features of the map that were inherited from the court.

Q. Like with the initial staff map do you know whether Senate Amendment 1 was shared with Jones Day before it was released to the public?

A. Senate Amendment 1?

Q. Um - hmm.

A. Probably. Most likely.

Q. Can you describe briefly the process for how the initial Senate staff plan was modified to become Senate Amendment 1?

A. Well, it was replaced at a subcommittee. There was a hearing held by the subcommittee. There was public testimony on the plan, various members came and inquired about it, maybe shared concerns about it, maybe suggested things that should or shouldn't be done.

And ultimately the amendment

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emerged. Maybe even the staff had some ideas about how we could build on it. I believe at some point we understood that Berkeley County could be kept whole, for instance, and so we did it.

8 Q. Was that a priority to keep
9 Berkeley whole?

10 A. No, it wasn't a specific
11 priority to keep Berkeley whole.
12 No, it was just a feature.

13 Q. What were the priorities of
14 Senate Amendment 1 as far as you can
15 recall?

16 A. Well, they preserved the
17 course of the existing districts in
18 a way that most other plans didn't.
19 I think for some members there was a
20 political consideration and they at
21 least preserved the competitive
22 nature of District 1 and its
23 viability for a Republican
24 candidate. There's certainly no
25 guarantee.

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2 And there were some other
3 features, like Beaufort was kept in
4 the First District with Charleston,
5 Berkeley or at least partially
6 Charleston. I mean there were -- I
7 could go on. I don't know -- you
8 tell me.

9 Q. Were there any other key
10 criteria that you think guided the
11 Senate Amendment 1?

12 A. The criteria were the
13 criteria. Was there any other key
14 input that guided Senate Amendment
15 1, there might have been. Again,
16 I'm distinguishing between criteria
17 as the criteria adopted by the
18 subcommittee and political decisions
19 that were made by the membership in
20 the development of the map. I think
21 those are two different things.

22 Q. You mentioned Sun City
23 earlier being responded to in terms
24 of that white majority area being
25 kept together in Jasper County?

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2 A. Yes.

3 Q. Do you, sitting here today,
4 believe that the community in
5 Charleston was kept whole and
6 responded to in the same way as
7 those in Sun City?

8 MR. GORE: Objection.

9 Mischaracterizes his testimony.

10 A. Yeah, that's certainly not
11 my testimony.

12 Q. That's a question. Do you
13 think that --

14 A. I don't think they are
15 comparable.

16 Q. You don't think they are?

17 A. Comparable.

18 Q. How come?

19 A. We are talking about a
20 sliver of Jasper County. I don't
21 remember the specific population but
22 it was de minimis. It is part of
23 the same -- as far as I know even
24 enclosed but it's certainly the same
25 planned community that has its bulk

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in Berkeley County so -- I mean Beaufort County. So it really wasn't a stretch to say we are going to take Sun City and loop in this little nub at the top of -- at the bottom of Jasper County, top of Beaufort, and keep the Sun City place together. It's only -- I don't know, but they certainly -- they have the same roads, they have the same community events for its connectivity. That seemed like a fairly reasonable conclusion to reach and it was not going to have any kind of major political impact on anybody one way or the other. So we didn't see it as something that would impact the Sixth District or the First District one way or the other. It was not a big enough situation.

23 Charleston is very different.
24 Charleston in its current
25 configuration, you know, at least

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the beginnings of it were drawn by
the United States District Court.
And Charleston County, as far as I
know, has never been unified in a
congressional district in, certainly
since single member districts maybe.
I stand corrected. If we go before
2000, my memory is fading a little
bit.

11 So no, I don't think there's a
12 comparison between, given the
13 peninsula of Charleston County in
14 District 1, I think they are apples
15 and oranges.

16 Q. If Charleston could be kept
17 whole in CD 1, comply with the
18 Senate's stated criteria, keep CD 7
19 untouched, largely untouched, would
20 the major political concern that
21 remains be making CD 1 not
22 Republican leading?

23 A. It's in the eye of the
24 beholder. I mean it's a -- well,
25 that's a policy decision to be made

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2 one person in Sun City. Do you
3 recall hearing testimony from
4 members of the public about keeping
5 Charleston County whole even if it
6 had been split in previous maps?

7 A. I do.

8 Q. Would you agree that more
9 people testified in support of
10 keeping Charleston County whole than
11 compared to the treatment of Sun
12 City?

13 A. Yes.

14 Q. Looking at the Senate
15 redistricting criteria adopted on
16 September 17th, under Additional
17 Considerations is one of the
18 criteria that should be considered
19 keeping counties whole, maintaining
20 counties?

21 A. It's -- one of the criteria
22 is minimizing of county boundaries.

23 Q. And so minimizing the
24 splits of counties, including
25 Charleston, would thus comply with